DETAILED ACTION

This is in reference to communication received 14 November 2008. 1 – 7 and 10 – 17 are pending for examination.

Priority

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original non-provisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 10/094,806 & 60/311,125 and , fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. Prior-filed application does not disclose

providing an indication of a likelihood that an appraisal value for a property, which is secured by a mortgage loan, was faulty;

receiving a past date;

receiving information representative of at least one of a borrower of the mortgage loan secured by the property, a property, or one or more demographics of the property location, such that the received information corresponds to the past date;

receiving the appraisal value based on the date; and

determining a score based on the received information, received appraisal, and the model, such that the score provides the indication of the likelihood that the appraisal value was faulty on the date

The considered priority date for the instant application is 07 October 2003 (filing date of the instant application).

Response to Arguments

Applicant's arguments and concerns are for amended claims which have been responded to in response to the pending claims.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 – 7 and 10 – 17 are not patentable because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent[1] and recent Federal Circuit decisions, A "process" under § 101 must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject

matter (such as an article or materials) to a different state or thing or (3) the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity.[2] If neither of these requirements is met by the claim, the method is not a patent eligible process under § 101 and should be rejected as being directed to nonstatutory subject matter. Moreover, the recitation of "computer implemented" in the preamble with the absence of a computer in the body of the claim or a lack of "another statutory class" in the body of the claim does not make the claim statutory.

As for claim 12, as currently claimed, the system may not be device of an documented system with the means for receiving information, however, it can be a telephone used by a user to receive the information during a conversation with a other party, and, using a calculator determines a score based on the received information and some formula(e) that the user will use to determine the score.

As for claims 13 – 14, applicant has not positively claimed whether the code is computer executable code with the capability for performing the steps.

As for claim 15, applicant has not positively claimed whether the user interface is an online user interface, or, it is a computerized application, or some thing else. As currently claimed, user interface can be telephone interface wherein the user using the telephone for conversation with an other party to gather information from the other party

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[1] *Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876)*

[2] *The Supreme Court recognized that this test is iiot necessarily fixed or perinanent and may evolve with technological advances. Gottschalk v. Aenson, 409 U.S. 63, 71 (1972),* In re Bilski, Fed. Cir. 2007-1130

As for claim 17, applicant has not positively claimed whether the web browser is used only for providing information (like a data entry interface), or said web browser also determines score based on the received information.

Also, as currently claimed, when only a past date and the appraisal value based on the past date is received, determining a score based on the received information will be a subjective value because no other data (related to appraisal) and formula(e) is utilized, therefore a user who determines the score based on the received information can provide score which is subjective to the user providing the score.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 – 7 and 10 – 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in

the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As currently claimed by the applicant as their claimed invention, disclosure originally filed 07 October does not teach how one of ordinary skill in the art can use the invention for providing, based on a model, an indication of a likelihood that an appraisal value for a property, which is secured by a mortgage loan, was faulty by just using a past date and the appraisal value as of that past date without some other data to make the comparison and making the determination based on the comparison.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 7 and 10 – 17 are rejected under 35 U.S.C. 112, second paragraph, as being vague and indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant claims the limitation:

As currently claimed, when a past date of a appraisal, and the valued of a appraisal as of that past date is received, it is not clear how the determination of the score is made based on the received information.

As for claim 12, it is not clear whether the system is device of an documented system with the means for receiving information can be a telephone used by a user to

receive the information during a conversation with a other party, and, using a calculator determines a score based on the received information and some formula(e) that the user will use to determine the score.

As for claims 13 – 14, it is not clear whether the code is computer executable code with the capability for performing the steps.

As for claim 15, it is not clear whether the user interface is an online user interface, or, it is a computerized application, or, it is an interface like a user using telephone for conversation with an other party to gather information using the means like the telephone.

As for claim 17, it is not clear whether the information provided to an entity is the information received to determine score, or the information is the determined score which is provided to the entity.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 – 7 and 10 – 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over screen snapshots of Realtor Workstation hereinafter known as RWS in view of Metropolitan Regional Information Systems (product of RWS) hereinafter known as MRIS and LeClerc et al. US Patent 6,834,120.

Regarding claims 1 and 12 – 15, as best understood by examiner, RWS teaches capability for providing appraisal value of a property. RWS teaches capability for providing current value of a property (asking price). RWS does not explicitly recite providing past appraisal of the property. However, MRIS teaches capability of providing past appraisal value of the property (sold price) based on a past date (settlement date).

Therefore, at the time of invention, it would have been obvious to one of ordinary skill in the art to modify RWS by adopting teachings of MRIS to help an appraiser determine the market trend and make adjustment to the appraised value of the property; apply a known technique to a known device (method, or product) ready for improvement to yield predictable results; known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art.

RWS in view of MRIS teaches capability for [RWS, page 4, 12, 19, 44; MRIS page 1 - 4]:

receiving a past date

receiving information representative of a property, such that the received information corresponds to the date

receiving appraisal value based on the past date

RWS in view of MRIS does not explicitly recite determining a score to indicate that the appraisal value on the past date is faulty. However, RWS in view of MRIS teaches concept of providing subsidy paid to the borrower at the time of settlement. It would have been obvious to one of ordinary skill in the art that large subsidy to the owner gives an indication that the sold price is higher than the price of the property, therefore giving an indication that the appraisal value (sold price) on the settlement date was faulty. **Also, concept of determining of likelihood that data as of a specific date is faulty is an old an known concept, for example, to minimize fraud in subsidized food programs in schools, schools are known to check parent/guardian stated income by income of the parent/borrower from some other source to determine the likelihood that the information provided by the parent/guardian is faulty** [RWS, page 4, 12, 19, 44; MRIS page 1 - 4]. LeClerc teaches system and method for measuring the accuracy by comparing the outputs different sources against each other [LeClerc, abstract]. Also, LeClerc teaches generating code [LeClerc, claim 3].

Therefore, at the time of invention, it would have been obvious to one of ordinary skill in the art to modify RWS in view of MRIS by adopting teachings of LeClerc to determine how well an appraiser has generated an appraisal of the property; apply a known technique to a known device (method, or product) ready for improvement to yield

predictable results; known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art.

RWS in view of MRIS and LeClerc teaches capability for:

determining a score based on the received information, the received appraisal, and the model, such that the score provides the indication of the likelihood that the appraisal value was faulty on the past date.

Regarding claim 2, RWS in view of MRIS and LeClerc teaches capability wherein the past date can be based on the closing date of the mortgage loan.

Regarding claim 3, RWS in view of MRIS and LeClerc teaches capability wherein the past date can be specified by a financial entity.

Regarding claim 4, RWS in view of MRIS and LeClerc teaches capability for maintaining, by the financial entity, the information representative of the borrower for determining the score (RWS teaches concept wherein an entity maintains information related to value of property).

Regarding claim 5, RWS in view of MRIS and LeClerc teaches capability wherein a user like financial entity can a lender.

Regarding claim 6, RWS in view of MRIS and LeClerc teaches capability wherein user like financial entity can be a broker.

Regarding claim 7, RWS in view of MRIS and LeClerc teaches capability for receiving information representative of the borrower's credit history as of the date.

Regarding claim 10, RWS in view of MRIS and LeClerc teaches capability for determining the appraisal value, such that the appraisal value corresponds to an estimate of value of the property as of the past date specified by the lender (RWS teaches capability for extracting data for specific date).

Regarding claim 11, RWS in view of MRIS and LeClerc teaches capability for determining the score based on a past date.

Regarding claim 16, RWS in view of MRIS and LeClerc teaches concept for means with capability for providing the appraisal value.

Regarding claim 17, RWS in view of MRIS and LeClerc teaches concept for a web browser means for providing information to an entity over the Internet.

Conclusion

Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NARESH VIG whose telephone number is (571)272-6810. The examiner can normally be reached on Mon-Thu 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Naresh Vig/
May 7, 2009 Primary Examiner, Art Unit 3629